

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

|                                   |   |                                   |
|-----------------------------------|---|-----------------------------------|
| Benjamin Jesse Jackson, III,      | ) | Civil Action No. 6:10-cv-3128-RMG |
|                                   | ) |                                   |
| Plaintiff,                        | ) |                                   |
|                                   | ) |                                   |
| vs.                               | ) | <b>ORDER</b>                      |
|                                   | ) |                                   |
| Sheriff H. Wayne DeWitt, et. al., | ) |                                   |
|                                   | ) |                                   |
| Defendants.                       | ) |                                   |
|                                   | ) |                                   |
|                                   | ) |                                   |

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Plaintiff brought this action pursuant to 42 U.S.C. § 1983. As a result, this matter was referred to a Magistrate Judge for pre-trial proceedings. The Magistrate Judge has made a report and recommendation that Defendants' motion to dismiss and for a more definite statement be granted in part and denied in part. (Dkt. No. 38). Plaintiff has responded to the report and recommendation indicating that he does not object to the R & R. (Dkt. No. 43). After a review for errors of law, the Court adopts the report and recommendation of the Magistrate Judge.

**Analysis**

The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with

instructions.” *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

Defendants’ claim that a Mrs. McElvogue does not exist. Plaintiff has agreed to dismiss her. Thus, Defendants’ motion is granted with respect to the request to dismiss Mrs. McElvogue. Defendants also asked for this Court to grant its motion for a more definite statement. After the motion was filed, Plaintiff amended his complaint. (Dkt. No. 37). In light of the amendment, the remaining portions of Defendants’ motion is rendered moot.

#### Conclusion

Based on the above, Defendants’ motion is **granted** in that Mrs. McElvogue is dismissed and the remaining portion of the motion is rendered **moot** in light of Plaintiff having filed an amended complaint. (Dkt. No. 30).

**AND IT IS SO ORDERED.**

  
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Richard Mark Gergel  
United States District Court Judge

April 26, 2011  
Charleston, South Carolina